IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 249 OF 2003

IN

SUMMARY SUIT NO. 3038 OF 2003

Tata Motors Ltd, .. Plaintiffs

vs.

M/s. Rahul Mors

& Ors. .. Defendants.

Mr. Nitin Thakker a/w Sanjay Kothari & A. Joshi,
Vipul Bilve i/by Mulla & Mulla
for plaintiffs.

Mr. Amardev Uriyal i/by R.M. Vansoo for defendants.

CORAM : S.U. KAMDAR, J.

DATE : 26TH SEPTEMBER, 2005.

P.C.

. The present suit is filed for recovery of a sum of Rs. 1,22,14,963.45. The said claim arises under a dealership agreement entered into by and between the plaintiffs and the defendants under which the plaintiffs had sold various vehicles to the defendants on principal to principal basis. There are 21 vehicles sold the details of which are

set out in Exhibit J. There is no dispute in respect of the invoices which are annexed to the plaint and/or in respect of the delivery of the said vehicles by the plaintiffs to the defendants. However, the defendants have raised two defences. Firstly it has been contended that there is no dealership agreement executed which is as annexed as Exhibit A to the plaint but there is an oral dealership agreement. The dealership agreement which is annexed to the plaint is duly signed by the defendant and in that view of the matter, I do not find any merit in respect thereof. However, the learned counsel appearing for the defendants has drawn my attention to last page and page nos. 1 and 2 which are signed pages and it is contended that there is no valid agreement because remaining pages are not signed. I find no substance in the said contention. However, under the said dealership agreement the defendant has paid to the plaintiff Rs. 126 lacs towards deposit. He further contends that such a deposit was made under Tata Indica car account. It is his case that the same is shown by the plaintiff in the Tata Indica car account and the same is not adjusted towards the suit claim. It is his contention that this deposit which is lying with the plaintiff should be adjusted against the claim in the present suit. I do not find any merit in the said contention because as against suit claim there are 21 cars are delivered. Admittedly there is no

deposit made in respect of these cars. If the deposits are made in respect of other cars and other cars are sold by the plaintiffs then it cannot be clubbed with the claim in the present case. If there is any right in the defendant to recover the said amount they can do so as permissible in law. In so far as the present suit is concerned, there is no merit whatsoever in the contentions raised by the defendants and in that view of the matter the summons for judgment is made absolute. Suit is decreed as prayed. Refund as per rules.